

MAR 17 2006

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

NOT FOR PUBLICATION

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

RAFFIE ESKANDARIAN, an individual
aka Rafael Eskandarian, aka Seal E,

Defendant - Appellant.

No. 04-50239

D.C. No. CR-98-00262-GAF-01

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Gary A. Feess, District Judge, Presiding

Submitted March 8, 2006**

Before: CANBY, BEEZER and KOZINSKI, Circuit Judges.

Raffie Eskandarian appeals from the district court's denial of his motion for a refund for overpayment of restitution.

The government contends that dismissal of Eskandarian's appeal is proper

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

** This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

under the fugitive disentitlement doctrine. *See Molinaro v. New Jersey*, 396 U.S. 365, 366 (1970) (per curiam) (holding that a fugitive is disentitled from calling upon the resources of the court for determination of his claims). Under the circumstances of this case, we conclude that exercising our discretion to apply the fugitive disentitlement doctrine to this appeal furthers the punitive and deterrent purposes of the doctrine. *See Antonio-Martinez v. INS*, 317 F.3d 1089, 1092-93 (9th Cir. 2003). Accordingly, we dismiss this appeal.

DISMISSED.